THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.22801 OF 2005

Date: 24.10.2005

Between:

K.A. Reddy

… Petitioner

and

Andhra Pradesh State Road Transport Corporation, rep. By its Depot Manager, Siddipet Depot, Siddipet, Medak & another.

… Respondents.

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.22801 OF 2005

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ORDER:

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The petitioner is employed as a conductor in the Siddipet Depot of A.P.S.R.T.C. Disciplinary proceedings were initiated against him on the basis of a complaint, dated 13.03.2005, submitted by four passengers alleging that they have boarded the bus conducted by the petitioner on that day to travel from Thimmapur to Siddipet and that though they have paid a fare of Rs.6/- each, the petitioner issued certain tickets which have been collected from the passengers, who alighted from the bus. The

respondents conducted a preliminary enquiry into the matter and on the basis of the same, a charge sheet, dated 15.03.2005, was served on the petitioner. He was placed under suspension on 22.03.2005. The petitioner submitted his explanation to the charge memo on 21.03.2005. A departmental enquiry was conducted and the Enquiry Officer submitted his report on 06.08.2005. The petitioner offered his comments to the findings in the enquiry report. Not being satisfied with the same, the second respondent issued a show-cause notice, dated 06.10.2005, proposing to remove the petitioner from service. The same is challenged in this writ petition.

Smt.K.Udaya Sri, the learned counsel for the petitioner submits that the second respondent has pre-determined the matter, even though there are serious and fatal defects in the enquiry. She submits that though the proceedings were initiated on the basis of an alleged complaint made by four passengers, none of them were examined and that the petitioner reliably understands that the complaint has since been withdrawn. She contends that there was neither a check on the bus nor there was any evidence to disclose that the petitioner committed any irregularities in the matter of conducting the bus. The learned counsel points out that the tone and tenor of the show-cause notice discloses that the second respondent already made up his mind to remove the petitioner from service and such a course of action is impermissible in law.

Sri V.T.M.Prasad, the learned standing counsel for the respondents, on the other hand, submits that the proceedings against the petitioner were initiated on the strength of a complaint and the Enquiry Officer has taken all the relevant factors into account and submitted his report. He contends that if the petitioner is of the view that the report of the Enquiry Officer is defective for any reason, the same can be pointed out in the explanation to the show-cause notice, and there is no reason to doubt that the second respondent would not take the same into account before passing any final order.

The petitioner challenges the show-cause notice issued at the final stage of the disciplinary proceedings initiated against him. Unless the disciplinary proceedings were initiated by any authority not vested with the powers or any serious irregularity, such as not following the principles of natural justice has crept into it, this Court cannot interfere with the show-cause notice.

One of the contentions urged on behalf of the petitioner is that none of the four

passengers, who were said to have submitted the complaint, were examined in the course of enquiry and despite the same, a finding was recorded to the effect that the charges against the petitioner are proved. If what is stated by the petitioner is true, it would certainly have a serious impact on the entire disciplinary proceedings. If the initiation of the proceedings against the petitioner was on the basis of the complaint submitted by certain passengers, it is fundamental that any action against the petitioner can be, only on the basis of the depositions of such passengers. Unless the passengers were examined by the management and were produced for cross-examination by the petitioner, it would be rather difficult to assume that the contents of the complaint are proved. Further, if the complaint has been withdrawn as alleged by the petitioner, the same needs to be taken into account. Since the very livelihood of the petitioner is involved, the matter needs to be proceeded with care and caution.

For the foregoing reasons, the writ petition is disposed of leaving it open to the petitioner to raise all the grounds on questions of fact and law in his explanation and the second respondent is directed to take the same into account before passing the final order.

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24.10.2005

kdl